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Appeal from Circuit Court, Rockingham County.

Suit by John E. Roller against O. B. Cooley and others. From a decree for defendants, complainant appeals. Affirmed.

Jno. E. Roller, of Harrisonburg, for appellant.

Chas. A. Hammer and *Sipe & Harris*, all of Harrisonburg, for appellees.

BRACEY v. COMMONWEALTH.

June 8, 1916.

[89 S. E. 144.]

1. Indictment and Information (§ 32 (3)*)—Requisites of Presentment for Misdemeanor—Against Peace and Dignity.—A presentment for a misdemeanor need not conclude “against the peace and dignity of the commonwealth,” since it does not come under the constitutional requirement that “indictments shall conclude, against the peace and dignity of the commonwealth.” Const. 1902, § 106 (Code 1904, p. ccxxxvi).

[Ed. Note.—For other cases, see Indictment and Information, Cent. Dig. § 125; Dec. Dig. § 32 (3).* 7 Va.-W. Va. Enc. Dig. 398.]

2. Criminal Law (§ 662 (4)*)—Trial—Reception of Evidence—Right to Confront Witnesses.—Const. 1902, § 8 (Code 1904, p. ccix), providing that “in all criminal prosecutions a man hath the right to be confronted with the accusers and witnesses,” is not violated by Byrd Law, § 24 (Acts 1908, c. 189), providing that the certificate of the state chemist showing analysis of a mixture supposed to contain alcohol, when signed and sworn to by him, “shall be evidence in all prosecutions under the revenue laws.”

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. § 1540; Dec. Dig. § 662 (4).* 3 Va.-W. Va. Enc. Dig. 197.]

3. Criminal Law (§ 429 (1)*)—Evidence—Documentary—Official Certificate.—Where a statute authorizes a public officer to make a certificate of acts within the scope of his official duty, such certificate is receivable under the documentary evidence rule as an exception to the hearsay rule.

[Ed. Note.—For other cases, see Criminal Law, Cent. Dig. § 1018; Dec. Dig. § 429 (1).* 4 Va.-W. Va. Enc. Dig. 757.]

4. Intoxicating Liquors (§ 131*)—Selling without License—Intention.—The belief of one accused of selling ardent spirits without a license as to the character of the beverage sold, or his intention to violate the law, is not material in determining his guilt.

[Ed. Note.—For other cases, see Intoxicating Liquors, Cent. Dig. §§ 140, 161; Dec. Dig. § 131.* 8 Va.-W. Va. Enc. Dig. 16.]

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

5. Jury (§ 24*)—Right to Jury Trial—To Have Jury Assess Punishment.—Byrd Law, § 27, allowing the court in its discretion to sentence to imprisonment for not more than 60 days one found guilty of violating its provisions, is not unconstitutional as depriving such accused of right to jury trial; such right not including a right to have punishment assessed by the jury.

[Ed. Note.—For other cases, see *Jury*, Cent. Dig. § 143; Dec. Dig. § 24.* 9 Va.-W. Va. Enc. Dig. 16.]

6. Criminal Law (§ 1213*)—Punishment—Cruel and Unusual.—Nor in such prosecution is a jail sentence of 30 days, in addition to a fine of \$100, cruel and unusual punishment, and therefore unconstitutional.

[Ed. Note.—For other cases, see *Criminal Law*, Cent. Dig. §§ 3304-3309; Dec. Dig. § 1213.* 12 Va.-W. Va. Enc. Dig. 139.]

Error to Circuit Court, Southampton County.

Defendant Bracey was found guilty of selling ardent spirits without a license, and brings error. Affirmed.

J. N. Sebrell, Jr., of Norfolk, for plaintiff in error.

The Attorney General, for the Commonwealth.

ROBBINS *v.* WALKER.

June 8, 1916.

[89 S. E. 128.]

Boundaries (§ 10*)—Descriptions—Plats.—Where, on a plat, southwesterly boundary line of lots on the south side of a street separated them from marsh land lying between the lots and a creek to the south, constituting the southern boundary of the platted tract, the side lines of lots not being prolonged into the marsh, whereas lots on the north side of the street were not so separated from a marsh in their rear, but the side lines of the latter lots were prolonged into that marsh, one whose chain of title to a lot on the south side referred to such plat and described the lot as 150 feet deep, which was the depth indicated by the said southerly boundary line thereof, held, in ejectment, not to have title or any right to the marsh in the rear of the lot.

[Ed. Note.—For other cases, see *Boundaries*, Cent. Dig. §§ 90, 91; Dec. Dig. § 10.* 2 Va.-W. Va. Enc. Dig. 594.]

Appeal from Circuit Court of City of Norfolk.

Action by Alice V. Robbins against Flavius B. Walker. From a judgment for defendant, plaintiff appeals. Affirmed.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.